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September 28, 2021

Hon. Denis R. Hurley, U.S.D.J.
United States District Court
Eastern District of New York
100 Federal Plaza
P. O. Box 9014
Central Islip, New York 11722-9014

Re: Henry v. County of Nassau 2:17-cv-06545-DRH-AKT

Dear Judge Hurley:

This office represents the Plaintiff, Lambert Henry, in the above-referenced action. We write to this Court pursuant to Your Honor's Individual Rule 3(A)(ii) requesting a pre-motion conference regarding a potential motion for Default under Fed. R. Civ. P 55 seeking a default judgment due to Defendant's failure to file an Answer in this action. In the alternative, we respectfully request Your Honor issue an order making the mandate of the Appellate Court an order of the District Court and set a date by which the Defendants must file an answer to the Complaint.

As explained below, it appears that the Appellate Court order has become a judgment of the District Court based upon the mandate filed on August 23, 2021 and entered with the Clerk of the District Court on August 25, 2021. Thus the Defendant is required to file an answer to the Amended Complaint within 21 days of August 25, 2021 - by September 15, 2021 - pursuant to Fed. R. Civ. P 12(a)(1)(A). Defendants' have not done so.

According to Local Civil Rule 58.1, any mandate of the Appellate Court filed in the office of the Clerk of the District Court:

. . .shall automatically become the order or judgment of the District Court and be entered as such by the Clerk without further order, except if such mandate, order, or judgment of the appellate court requires further proceedings in the District Court other than a new trial, an order shall be entered making the order or judgment of the appellate court the order or judgment of the District Court.



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The Committee Note for this Local Civil Rule states that “[t]he Committee recommends that the word “mandate” be added to Local Civil Rule 5.1 in order to clarify that the mandate of the Court of Appeals, when filed in the Clerk’s Office of the District Court as provided in Local Civil Rule 58.1, automatically becomes the judgment of the District Court.”

The Certified Order of the Appellate Court was filed with this Court on July 26, 2021 and entered pm July 27, 2021. ECF Doc. No. 72. Then, on August 23, 2021, the Appellate Court issued a mandate, which was entered with this Court on August 25, 2021, reversing the dismissal of Henry’s claims under 42 U.S.C. § 1983 and *Monell*, as well as his claims for declaratory and injunctive relief and for legal fees and further remanded the case to this Court for further proceedings. ECF Doc. No. 73.

In sum, the Plaintiff respectfully requests a Conference with this Court to discuss the above issues and set a date by which the Defendants must file an answer so this case can move forward.

Very truly yours,

A handwritten signature in black ink, appearing to read "R. J. La Reddola", written over the typed name.

Robert J. La Reddola

RJL:jv

Cc: Ralph Reissman, Esq.